

MEMO ENDORSED

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June 19, 2023

Hon. Valerie E. Caproni
United States District Court Judge
Southern District of New York
New York, NY

Re: U.S. v. Brian O'Neill: Case 1:22-cr-00057-VEC

Dear Judge Caproni:

On May 8, 2023, this Court sentenced Brian O'Neill to a term of imprisonment of 9 years. (ECF Doc. 73). The Court recommended to the Bureau of Prisons (BOP) that Mr. O'Neill be “designated to a facility close to the State of Maryland to facilitate family visits.” (*Id.*) The Court also permitted Mr. O'Neill to remain on pretrial release. The Court further ordered that Mr. O'Neill shall surrender to the facility designated by BOP on June 21, 2023, and that if Mr. O'Neill was not designated by that date, he shall surrender to the U.S. Marshals in the SDNY on that date. (*Id.*).

By this letter, the defendant respectfully asks this Court for a 45-day delay in his surrender date as the BOP did not receive Mr. O'Neill's paperwork and the BOP did not begin classifying him until the end of last week and therefore has not yet designated a facility.

I set forth the relevant facts for this Court's consideration:

1. On Thursday, June 15, 2023, I spoke with an attorney in BOP's Counsel's Office regarding the status of Mr. O'Neill's facility designation. That attorney informed me that Mr. O'Neill's paperwork was not in their system and therefore his facility designation had not started.

2. Subsequently, on June 15, 2023, I notified AUSA Margaret Lynaugh via a phone call of my conversation with BOP Counsel's Office.

3. That same day, AUSA Lynaugh investigated and confirmed to me via e-mail that Mr. O'Neill's paperwork was not in the system. AUSA Lynaugh provided BOP with a copy of Mr. O'Neill's judgement of conviction, which was necessary to begin the designation process.

4. As of this date, BOP still has not specified where Mr. O'Neill must report.

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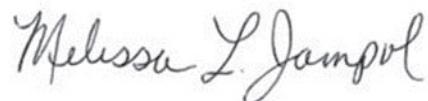
5. Given that Mr. O'Neill will not have a facility designation by his current surrender date, which is in two days on June 21, 2023, we make this application to permit the Bureau of Prisons adequate time to classify Mr. O'Neill and designate him to a BOP facility. If Mr. O'Neill surrenders to the U.S. Marshals, he most likely will be housed in U.S. Marshals custody in Brooklyn MDC until he is designated. Brooklyn MDC will be impossible for his family, including his two sons to visit, as they are in Maryland. Moreover, the Brooklyn MDC facility is likely a higher security level than the facility that Mr. O'Neill, a first-time offender, will be placed in by the BOP. As such, surrendering to the U.S. Marshals will remove Mr. O'Neill from family visits and be unnecessarily punitive given BOP's own administrative error.

I have consulted AUSA Lynaugh regarding this application for a delay in Mr. O'Neill's report date given the circumstances outlined above. She indicated that the government does not have a position.

As such, we request that the Court vacate the current surrender date and permit Mr. O'Neill to surrender to the BOP in 45-days, which should provide the BOP with sufficient time to classify Mr. O'Neill and designate a facility so that he can surrender directly to that facility. The time requested is reasonable, and there have been no prior requests for this relief. .

Upon the Court's review, if the Court has any questions, I respectfully request a conference tomorrow, Tuesday June 20, 2023, to discuss this application further.

Respectfully submitted,



Melissa L. Jampol

Cc: AUSA Margaret Lynaugh, Esq.

Application GRANTED. Mr. O'Neill's surrender date is hereby adjourned from June 21, 2023 at 12:00 P.M. to **August 7, 2023 at 12:00 P.M.**

SO ORDERED.



06/20/2023

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE